

## **REMARKS**

### **Amendments to the Claims**

Claims 116, 177-182 and 243-297 and 299-303 are pending. Claims 116, 180, 244-250, 253-260, 262-279, 281-288, 290-291, 293-294, 296-297, 300 and 302-303 stand rejected. Claims 177-179, 181-182, 243, 251-252, 261, 280, 289, 292, 295, 299 and 301 stand withdrawn. With this response, Applicant amends claims 116, 256, 257, and 284. No new matter has been added.

### **Rejection under 35 U.S.C. § 112, second paragraph**

The Office Action rejected claims 116, 180, 244-250, 253-260, 262-279, 281-288, 290-291, 293-294, 296-297, 300 and 302-303 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner stated that claims 116, 256, 257, 277 and 285 are unclear in what is encompassed by the term “substantially complementary” (See pages 3-4 of the Office Action). The claims were previously amended to recite “and wherein a portion of at least 6 nucleotides in length of the first or second stem-forming portion of the second nucleic acid molecule is complementary or substantially complementary to a portion of at least 6 nucleotides in length of the first nucleic acid molecule.” The Examiner states that the claims remain indefinite because the previous amendment did not address the term “a portion” and “a portion of at least 6 nucleotides or a portion of at least 4 nucleotides still reads on a single nucleotide.”

Applicant thanks Examiners Hibbert and Vogel for granting a telephonic interview with Applicant's representatives Charles Lyon and Jessica Colantonio on February 8, 2011, regarding the above-referenced application. As discussed during the interview, Applicant has amended claim 116 to recite complementarity or substantial complementarity between a portion of the nucleic acid molecule “that is at least 6 nucleotides in length”. Support for this amendment can

be found, for example, in paragraph [0062] of the published application. Applicant amends claims 256 and 257 (as well as claim 284) to recite complementarity between a portion of the nucleic acid molecules “that is at least 4 nucleotides in length.” Support for this amendment can be found, for example, in paragraph [0077] of the published application. Claims 277 and 285 do not recite the terms “substantially complementary”. As discussed during the interview, Applicant submits that, as amended, claims 116, 256, 257, 285 (as well as claim 284), and claims dependent therefrom, are not indefinite.

The Office Action further rejected claim 116, which recites the limitation “the stem-loop structure in which the cis-repressive sequence element participates” as allegedly lacking antecedent basis. Applicant thanks Examiners Hibbert and Vogel for discussion of this rejection in the telephonic interview with Applicant’s representatives on February 8, 2011, during which, Examiners Hibbert and Vogel acknowledged that there was antecedent basis for this term.

Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejection of claims 116, 180, 244-250, 253-260, 262-279, 281-288, 290-291, 293-294, 296-298, 300 and 302-303 under 35 U.S.C. § 112, second paragraph.

**Rejections under 35 U.S.C. 102(b) and 35 U.S.C. 112, first paragraph, written description**

During the interview, the rejections of claim 116 under 35 U.S.C. § 112, first paragraph, written description, and 35 U.S.C. § 102(b) over Atluvia *et al.* and Argaman *et al.* were also discussed.

Applicant began the interview by presenting arguments similar to those presented in the last Office Action response, filed on May 4, 2010, regarding the rejection of the claims under 35 U.S.C. § 102(b) over Atluvia *et al.* and Argaman *et al.* Examiner Hibbert indicated that she would reconsider Applicant’s arguments and the cited references in view of the clarifications presented during the interview.

Applicant and Examiners Hibbert and Vogel also discussed arguments presented in the last Office Action response, filed on May 4, 2010, regarding the rejection under 35 U.S.C. § 112, first paragraph, written description. Examiner Hibbert indicated that she would need to confer with her colleagues regarding this rejection in view of the arguments presented.

### **Conclusion**

Applicant respectfully submits that the present case is in condition for allowance. A Notice to that effect is requested. Applicant would like to thank Examiners Hibbert and Vogel again for what was a very productive interview and thanks the Examiners for their careful consideration of the present case. If a telephone conversation would help to clarify any issues, or help expedite prosecution of this case, Applicant invites the Examiner to contact the undersigned at (617) 248-4793.

Respectfully submitted,

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Dated: February 16, 2011

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